

Amendment No. 1 to SB4030

**Harper
Signature of Sponsor**

AMEND Senate Bill No. 4030

House Bill No. 3937*

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 8-4-115, is amended by deleting subdivisions (a)(1)(B) and (a)(1)(C) in their entireties and substituting instead the following language:

(B) Two (2) sets of fingerprint cards, properly completed and mailed to the Tennessee bureau of investigation. However, in the case of juvenile arrestees the fingerprint cards shall be delivered to the juvenile court, which shall cause the fingerprint cards to be transmitted to the Tennessee bureau of investigation only upon the juvenile being adjudicated delinquent for a violation that if committed by an adult would constitute one (1) or more of the offenses enumerated in § 37-1-133, and the juvenile was sixteen (16) years of age or older at the time the offense was committed.

(C) Delivery to the appropriate local law enforcement agency of a completed judgment order signed by a judge to be used by the local law enforcement agency for completion of an R-84 Disposition Card, except as provided in this subdivision (a)(1)(C). A local law enforcement agency and a clerk of court can collaborate on an automated process for the electronic submission of final dispositions for criminal cases to the Tennessee bureau of investigation. After a law enforcement agency and a clerk of court have implemented an automated process for the electronic submission of final dispositions for criminal cases, and have had the process certified by the Tennessee bureau of investigation, all final dispositions shall be reported electronically. Upon implementation of an automated process for the electronic submission of final

dispositions for criminal cases, the delivery to the local law enforcement agency of a completed judgment order signed by a judge to be used by the local law enforcement agency for completion of an R-84 Disposition Card, and the submission by the local law enforcement agency of a completed R-84 Disposition Card to the Tennessee bureau of investigation are no longer required. In the case of a juvenile being adjudicated delinquent for a violation that if committed by an adult would constitute one of the offenses enumerated in § 37-1-133, and the juvenile was sixteen (16) years of age or older at the time the offense was committed, the juvenile court shall cause the R-84 Disposition Cards and fingerprint cards to be submitted in tandem to the Tennessee bureau of investigation;

SECTION 2. Tennessee Code Annotated, Section § 37-1-133, is amended by deleting subsection (a) in its entirety, by substituting instead the following new subsections, and by renumbering the subsequent existing subsections accordingly:

(a) An order of disposition or other adjudication in a proceeding under this part is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment, except when otherwise authorized by law or when a juvenile is adjudicated delinquent for a violation that if committed by an adult would constitute one (1) or more of the following offenses: any Class A felony, aggravated kidnapping as defined in § 39-13-304, aggravated robbery as defined in § 39-13-402, rape as defined in § 39-13-503, or aggravated sexual battery as defined in § 39-13-504, and the juvenile was sixteen (16) years of age or older at the time the offense was committed. The Tennessee bureau of investigation shall release any such adjudications in its possession to any requesting agency that is authorized by state or federal law to submit fingerprints to the Tennessee bureau of investigation or the federal bureau of investigation for employment or licensing purposes.

(b) When a child is adjudicated delinquent by virtue of any offense listed in subsection (a) or before the child admits the commission of any such offense, the juvenile court must notify the child that the child's adjudication and fingerprints will be forwarded to the Tennessee bureau of investigation, and that absent a subsequent expunction, the adjudication and fingerprints will be disclosed to authorized agencies and may prevent the child's employment or other connection with an authorized agency.

(c) A child shall not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences of persons convicted of a crime, except as provided in § 37-1-134.

SECTION 3. Tennessee Code Annotated, Section 37-1-153, is amended by deleting subsection (f) in its entirety and substituting instead the following language:

(f) Notwithstanding the provisions of any law to the contrary, any person who is tried and adjudicated delinquent by a juvenile court may subsequently petition the juvenile court for expunction of all public records relating to the adjudication. For the purposes of this section, public records shall have the meaning given in § 40-32-101. The court may order all or any portion of the requested expunction if, by clear and convincing evidence, the court finds that the petitioner:

(1)

(A) Is currently eighteen (18) years of age or older;

(B) Is at least one (1) year removed from the person's most recent delinquency adjudication; and

(C) Has never been convicted of a criminal offense as an adult, has never been convicted of a criminal offense following transfer from juvenile court pursuant to § 37-1-134, and has never been convicted of a sexual offense as defined in § 40-39-202, whether in juvenile court, following transfer from juvenile court pursuant to § 37-1-134, or as an adult;

(2) Has maintained a consistent and exemplary pattern of responsible, productive and civic-minded conduct for one (1) or more years immediately preceding the filing of the expunction petition; or

(3) Has made such an adjustment of circumstances that the court, in its discretion, believes that expunction serves the best interest of the child and the community.

SECTION 4. Tennessee Code Annotated, Section 37-1-155, is amended by deleting subsections (a) and (b) in their entireties and substituting instead the following language:

(a)

(1) This section applies not only to fingerprints but also to other scientific methods of establishing an individual's identity, including, but not limited to, DNA testing or retinal scanning. References to fingerprints or fingerprinting shall be read to include such other identification methods. No child shall be fingerprinted or photographed in the investigation of delinquent acts without the permission of the court, unless the child is charged with a delinquent act that, if committed by an adult, would constitute a felony, in which case the child shall be fingerprinted and photographed at the time the child is taken into custody and such fingerprint file may be maintained in an automated fingerprint identification system. Such fingerprint file and photograph shall only be accessible to law enforcement officers, except as provided in § 37-1-154, and shall be maintained separate and apart from adult fingerprint files. The custody and maintenance of those fingerprints and photographs shall be the responsibility of the agency taking the child into custody.

(2) Law enforcement agencies shall not disclose such fingerprint or photograph files, except as permitted under § 37-1-154.

(b)

(1) A child's local law enforcement records, files, fingerprints and photographs shall be destroyed within six (6) months after the individual reaches twenty-one (21) years of age, unless the individual was adjudicated delinquent for a violation that if committed by an adult would constitute one (1) of the offenses enumerated in § 37-1-133, and the juvenile was sixteen (16) years of age or older at the time the offense was committed, in which case the local law enforcement has the discretion to maintain or destroy such information after the individual reaches twenty-one (21) years of age.

(2) All fingerprint and photograph records maintained pursuant to the authority of this section shall be confidential and used for law enforcement purposes only, or as otherwise permitted by law.

SECTION 5. This act shall take effect July 1, 2008, the public welfare requiring it.